

### Remarks

As discussed below, the rejections of claims 1-6 and 8-14 cannot be maintained because the cited portions of the '278 reference do not correspond to numerous aspects of the claimed invention. Moreover, the rejections erroneously rely upon a flawed theory of inherency that is improperly based on mere possibilities, thereby directly contradicting the M.P.E.P. and relevant law.

In the Final Office Action dated December 23, 2008, claims 7 and 15 are objected to, and the following rejections are presented: claims 1-6, 8, 10-14 stand rejected under 35 U.S.C. § 102(b) over Osborn (U.S. Patent No. 5,796,278); and claim 9 stands rejected under 35 U.S.C. § 103(a) over the '278 reference in view of Shreve (U.S. Patent No. 6,100,728). Claims 7 and 15 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant traverses all of the rejections and, unless explicitly stated by the Applicant, does not acquiesce to any objection, rejection or averment made in the Office Action.

Applicant respectfully traverses the rejections of claims 1-6 and 8-14 (each of which is based on the '278 reference) because the cited portions of the '278 reference do not correspond to the claimed invention. In certain embodiments, the claimed invention is directed to using a temperature sensor to measure the temperature of at least one of two MOSFETs and individually controlling the resistance of at least one of the MOSFETs based on the measured temperature. The cited portions of the '278 reference do not teach measuring the temperature of transistor 210 or controlling the resistance of transistor 210 based on the measured temperature. In an attempt to assert correspondence to the claimed invention, the Examiner erroneously asserts that the "corrective feedback circuit" of the '278 reference inherently functions responsive to changes in the temperature of transistor 210, as allegedly indicated by the voltage  $V_{SNS}$  across resistor 222. The cited portions of the '278 reference, however, expressly teach that the feedback arrangement of Figure 4 is used to lower current  $I_1$  when the load current  $I_L$  exceeds a certain value. *See, e.g.,* Col. 7:54 to Col. 8:2. As such, Applicant submits that the Examiner's assertion of inherency is improperly based on a mere possibility (*i.e.*, that a change in temperature of transistor 210 could result in the feedback arrangement of Figure 4 being used to adjust current  $I_1$ ) in direct violation of M.P.E.P. § 2112:

To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

In other words, the feedback arrangement of Figure 4 does not necessarily possess “inherent temperature stability properties” because a change in the temperature of transistor 210 does not necessarily result in the adjustment of current  $I_1$ . As such, the Examiner’s assertion of inherency fails and the rejections of claims 1-6 and 8-14 must be withdrawn.

In addition, Applicant traverses the Examiner’s assertion that “it is perfectly reasonable to view component 222 as a temperature sensor since component 222 provides a voltage value that is directly dependent on a current through transistor 210, which is directly related to the temperature of transistor (210).” See page 4 of the Office Action. First, the cited portions of the ‘278 reference do not teach that the voltage  $V_{SNS}$  across resistor 222 is directly dependent on the current through transistor 210; instead, the voltage  $V_{SNS}$  across resistor 222 is taught as also being dependent on the load current  $I_L$  (“As  $I_L$  increases through  $R_{SNS}$  222,  $V_{SNS}$  correspondingly increases.”). See, e.g., Figure 4 and Col. 7:55-62. As such, the ‘278 reference teaches that the voltage  $V_{SNS}$  across resistor 222 can change irrespective of the current through transistor 210 (i.e., voltage  $V_{SNS}$  can change without the current through transistor 210 changing). Thus, the voltage  $V_{SNS}$  across resistor 222 is not directly dependent on the current through transistor 210. Second, the cited portions of the ‘278 reference do not teach that the current through transistor 210 is directly related to the temperature of transistor 210; instead, the current through transistor 210 is taught as also being dependent on the variable current  $I_1$ , which is used to drive transistor 210. As such, the ‘278 reference teaches that the current through transistor 210 can change irrespective of the temperature of the transistor 210. Thus, the current through transistor 210 is not directly related to the temperature of transistor 210.

In view of the above, Applicant submits that the skilled artisan would not reasonably interpret resistor 222 as being a temperature sensor that measures the temperature of transistor 210. See, e.g., M.P.E.P. § 2111 (“The broadest reasonable

interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.”). Specifically, the voltage  $V_{SNS}$  across resistor 222 does not provide any reliable indication of the temperature of transistor 210 since the voltage  $V_{SNS}$  can change irrespective of any change in the temperature of transistor 210. *See, e.g., McGraw-Hill Dictionary of Scientific and Technical Terms, 6th edition (Temperature Sensor: “A device designed to respond to temperature stimulation.”), <http://www.answers.com/topic/temperature-sensor>.* As such, the skilled artisan would not reasonably interpret resistor 222 as being a temperature sensor that measures the temperature of transistor 210 since the cited portions of the ‘278 reference do not teach that the temperature of transistor 210 can be determined from the voltage  $V_{SNS}$  across resistor 222. Thus, resistor 222 is not a temperature sensor. Accordingly, the rejections of claims 1-6 and 8-14 are improper and Applicant requests that they be withdrawn.

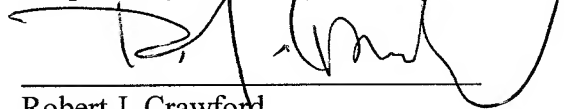
In response to the objection to claims 7 and 15, Applicant has amended claims 7 and 15 to remove the word second in relation to the term preset value. As such, Applicant submits that the antecedent basis concerns raised by the Examiner have been addressed and Applicant requests that the objection be removed.

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063.

*Please direct all correspondence to:*  
Corporate Patent Counsel  
NXP Intellectual Property & Standards  
1109 McKay Drive; Mail Stop SJ41  
San Jose, CA 95131

CUSTOMER NO. 65913

Respectfully,



Robert J. Crawford  
Reg. No.: 32,122  
(NXPS.569PA)